

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Stephen Abrahamson and Timothy
Kotzian,

Complainants,

vs.

**NOTICE OF DETERMINATION OF
PRIMA FACIE VIOLATION
AND
NOTICE OF AND ORDER FOR
PREHEARING CONFERENCE**

The St. Louis County School District,
Independent School District No. 2142,
Superintendent Steven Saltee, Business
Manager Kimberly Johnson, and in their
capacity as School Board Members for the
District, Robert Larson, Chair, Chet
Larson, Lynette Zupetz, Gary Rantala,
Jody Feist, Nancy Wall Glowaski, and Troy
Swanson,

Respondents.

On December 8, 2014, Stephen Abrahamson and Timothy Kotzian (Complainants) filed a campaign complaint with the Office of Administrative Hearings (OAH). The complaint alleges that the St. Louis County School District, Independent School District No. 2142, Superintendent Steven Saltee, Business Manager Kimberly Johnson, and School Board Members Robert Larson, Chair, Chet Larson, Lynette Zupetz, Gary Rantala, Jody Feist, Nancy Wall Glowaski, and Troy Swanson (Respondents) violated Minn. Stat. § 211A.02, subd. 2, items (1), (4) and (5) (2014)¹ by failing to provide full and complete campaign finance disclosure regarding the School District's December 8, 2009 referendum.

After reviewing the complaint and attached exhibits, the undersigned Administrative Law Judge has determined that the complaint sets forth a prima facie violation of Minn. Stat. § 211A.02, subd. 2(1), (4), (5). This determination is described in more detail in the attached Memorandum.

¹ The "Introduction" to the Complaint stated that the Respondents violated Minn. Stat. § 211A.02, subds. 1, 4, 5 (2014). It appears this was a clerical error, and the Complainants are actually alleging that the Respondents violated Minn. Stat. § 211A.02, subd. 2 (1), (4) and (5).

This matter is scheduled for a prehearing conference to be held by telephone before the undersigned Administrative Law Judge at **11:00 a.m. on Wednesday, January 21, 2015**. At the appointed time, the parties are directed to:

- (a) Telephone **1-888-742-5095**
- (b) Enter the Conference Code: **249 440 7275#**

At the prehearing conference, preliminary matters will be addressed such as identifying the issues to be resolved, the number of potential witnesses and exhibits should the matter proceed to hearing, possible dates for the hearing, and determining whether the matter may be disposed of without an evidentiary hearing.

Any party who needs an accommodation for a disability in order to participate in the hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, the Administrative Law Judge must be promptly notified.

To arrange an accommodation, contact the Office of Administrative Hearings at P.O. Box 64620, St. Paul, MN 55164-0620, or call 651-361-7900 (voice) or 651-361-7878 (TTY)

Dated: December 11, 2014

s/James E. LaFave

JAMES E. LAFAVE
Administrative Law Judge

MEMORANDUM

The Complainants were parties in an earlier action against the School District filed in November 2010 and ultimately decided by the Office of Administrative Hearings on May 30, 2014.² Pursuant to that order, the Respondent School District was ordered to file the required campaign financial reports with the appropriate filing officer and with OAH by August 30, 2014. On September 22, 2014, the School District filed with OAH a campaign financial report dated August 29, 2014, and an amended campaign financial report dated September 3, 2014.

² *Abrahamson v. St. Louis County School Dist.*, OAH Docket No. 68-0325-21677, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER (May 30, 2014).

The Complainants allege that the School District has failed to report tens of thousands of dollars in campaign disbursements in violation of Minn. Stat. § 211A.02, subd. 2(4), (5). In addition, the Complaint asserts that by failing to list the ballot question at issue on the reports, and by failing to identify any source of funds despite thousands of dollars in disbursements, the School District violated Minn. Stat. § 211A.02, subd. 2(1), (4).

Standard of Review

To set forth a prima facie case that entitles a party to a hearing, the party must either submit evidence or allege facts that, if unchallenged or accepted as true, would be sufficient to prove a violation of chapter 211A or 211B (2014).³ For purposes of a prima facie determination, the tribunal must accept the facts alleged as true and the allegations do not need independent substantiation.⁴ A complaint must be dismissed if it does not include evidence or allege facts that, if accepted as true, would be sufficient to prove a violation of chapter 211A or 211B.⁵

Analysis

Under Minn. Stat. § 211A.02, subd. 1, candidates or committees who receive contributions or make disbursements of over \$750 in a calendar year must file financial reports with the appropriate “filing officer.”⁶ In addition to an initial financial report, a candidate or committee must also file a report 30 days after a general or special election.⁷

A “disbursement” is defined as “money, property, office, position, or any other thing of value that passes or is directly or indirectly conveyed, given, promised, paid, expended, pledged, contributed, or lent”.⁸ “Disbursement” does not include payment by a county, municipality, school district, or other political subdivision for election-related expenditures required or authorized by law.⁹

A “contribution” is defined to mean “anything of monetary value that is given or loaned to a candidate or committee for a political purpose.”¹⁰ “Contribution” does not include a service provided without compensation by an individual.¹¹

³ *Barry, et al. v. St. Anthony-New Brighton Independent School District, et al.*, 781 N.W.2d 898, 902 (Minn. Ct. App. 2010).

⁴ *Id.*

⁵ *Id.*

⁶ Minn. Stat. § 211A.01, subd. 7, defines “filing officer” to mean the officer authorized by law to accept affidavits of candidacy or nominating petitions for an office or the officer authorized by law to place a ballot question on the ballot.

⁷ Minn. Stat. § 211A.02, subd. 1(b)(3).

⁸ Minn. Stat. § 211A.01, subd. 6.

⁹ *Id.*

¹⁰ Minn. Stat. § 211A.01, subd. 5.

¹¹ *Id.*

Minnesota Statutes, section 211A.02, subd. 2, requires campaign financial reports to include the following:

- (1) the name of the candidate or ballot question;
- (2) the printed name, address, telephone number, signature, and e-mail address, if available, of the person responsible for filing the report;
- (3) the total cash on hand designated to be used for political purposes;
- (4) the total amount of contributions and disbursements for the period from the last previous report to five days before the current report is due;
- (5) the amount, date, and purpose for each disbursement; and
- (6) the name, address, and employer, or occupation if self-employed, of any individual or committee that during the year has made one or more contributions that in the aggregate exceed \$100, and the amount and date of each contribution. The filing officer must restrict public access to the address of any individual who has made a contribution that exceeds \$100 and who has filed with the filing officer a written statement signed by the individual that withholding the individual's address from the financial report is required for the safety of the individual or the individual's family.

The Administrative Law Judge finds that the complaint alleges sufficient facts to support finding prima facie violations of Minn. Stat. § 211A.02, subd. 2. This matter shall proceed to a prehearing conference as ordered and, unless otherwise disposed of, shall be set on for an evidentiary hearing before a panel of three administrative law judges pursuant to Minn. Stat. § 211B.33, subd. 2(d).

J.E.L.